

# Child Trafficking in India

## Abstract

The present study titled "Child trafficking in India" was carried out for the purpose to know the threat of child trafficking, their extent and how we combat it through effective implementation of existing Laws in our country.

The nature and main objective of child trafficking, their extent, affected areas, important cause behind this crime, their historical background, national and international legal framework, schemes and conventions were studied in relation to child trafficking in India to know the effectiveness or shortcomings of the existing laws in our country.

The crime of child trafficking can be prevented only through effective implementation of existing Laws. But sometimes, not implemented effectively due to of corruption and unawareness of people. Without any awareness about law in our society and people participation and cooperation to police the network of criminals cannot break easily. If every person takes own personal responsibility not even trafficking, even every crime can be controlled. In the fight against trafficking a joint effort of government organizations, non-governmental organizations, civil society, pressure groups, and international bodies is necessity of time. Merely Law cannot be taking care of all problems so we all have to aware about our role and responsibilities. Government have also some responsibility and accountability towards society regarding child Education, Health & Nutrition and Child Protection. Child trafficking infringes the child rights, and childhood. So for saving them we should help the children for the better future of our country.

**Keywords:** Trafficking; Legal framework; Child Rights

## Introduction

The word trafficking generally means the activity of buying and selling goods or people illegally<sup>1</sup>. In current scenario, child trafficking is a burning issue. The main motive of traffickers is only money. There is a big network in India and other countries also. We can say that whole world effected from this crime. Their gangs activated in small to big cities and villages also. Their gang members pick the child from anywhere like parks, hospitals, streets, and other public places, after that they sold them to big gang and these children were brain washed or become handicapped by them and used for begging, bonded labour, smuggling, and other illegal activities.

Children are like wet cement, whatever falls on them makes an impression so they can use easily for illegal work or activities by these types of gangs. The developing and underdeveloping countries like India, Pakistan, Nepal, Bhutan, Bangladesh, Myanmar, and Sri Lanka etc. effected from this. These are poor countries so their children up to 14 to 18 year easily targeted. Many children (both boys & girls) are come to metropolitan cities from villages or undeveloped regions for work and earn money but they are detained in gang and sold by them for bonded labour to house holders, factories, hotels, and some time they are sold to brothels.

Poverty is a primary cause of human trafficking in India<sup>2</sup>. Other factors include "low employment prospects, a patriarchal culture, low regard for women's rights, low levels of education, discrimination and marginalization of women, and cultural factors such as dowry issues."<sup>3</sup> Labour trafficking is particularly driven by poverty, which increases vulnerability to trafficking, and by the increased demand for cheap labour and the lack of governance, which in turn facilitates trafficking in persons<sup>4</sup>. Sex trafficking, which largely impacts women and girls forced into prostitution, is facilitated by similar factors, as well as the low female-to male child sex ratio in northern India (namely, Uttar Pradesh and Haryana) and the large number of migrant labourers in certain regions of India, which increases the demand for commercial sex workers and also for trafficked brides<sup>5</sup>.



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**Objective of The Study**

The nature and main objective of child trafficking, their extent, affected areas, important cause behind this crime, their historical background, national and international legal framework, schemes and conventions were studied in relation to child trafficking in India to know the effectiveness or shortcomings of the existing laws in our country.

**Review of Literature**

Slavery of human being is common from ancient times, many examples of that we read in history of human being. In ancient times white persons think that they are child of God and black persons (Negro) are their slaves, and they become for doing their work like animals. But according to time black persons did more and more struggle for growing up and prove own self that they are also child of God. They have also all those rights those will have white persons. In proving this thing black leaders like Nelson Mandela spent 27 years in jail. Now, time is changed all persons treat equally. But some worst men just only for money doing many types of illegal work like human trafficking, smuggling, bonded labour, Sexual Exploitation etc. Human trafficking is modern day slavery. "Approximately 6,00,000 to 8,00,000 victims are trafficked across international borders annually, and between 14,500 and 17,500 of those victims are trafficked into the United States each year. More than half of these victims worldwide are children"-Child victims of Human Trafficking, Department of Health and Human Services, USA and the U.S Department of State"<sup>6</sup>.

**National Legal Framework**

For saving of children in India many laws makes by parliament. Time to time many social workers and NGOs were also take part in this type of movements in which they could work for saving children. Indian police makes a portal regarding the information, how many children kidnapped and how many children found by police. This portal name is khoya-paya. The Ministry has been implementing the Track Child portal since 2011-12 which was developed by the National Informatics Centre (NIC) for tracking missing and recovered children all over the country. On 23rd September 2016, the Juvenile Justice (Care and Protection of Children) Model Rules were notified by the Govt. of India and therefore, the modules available on Track Child are being updated by the NIC as per new rules<sup>7</sup>. Nobel Prize winner Kailash Satyarthi does many works for saving children. He is the founder of Bachpan Bchao Aandolan. Many children had reached safely at own home with the help of this foundation. According to the National Human Rights Commission of India, over **40,000** children are reported missing every year of which over **11,000** remain untraced<sup>8</sup>. The International Labor Organization's 2002 estimation of 1.2 million children being trafficked each year<sup>9</sup>. Children constitute 39% of the population of India (Census 2011). The Constitution of India places highest priority to the safety and well-being of children. The Constitution of India prohibits trafficking

of human beings and forced labour. Other initiatives taken by Indian government is, The Child Labour (Prohibition and Regulation) Amendment Act, 2016 and Juvenile Justice Rules 2016 Gazette Notification, The Juvenile Justice (Care and Protection of Children) Act, 2015 came into force on 15-01-2016 repealing the Juvenile Justice (Care and Protection of Children) Act, 2000. As per the provision of Section 110 (1) of JJ Act, 2015, the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 have been framed repealing the Model Rules of 2007. The JJ Model Rules which were notified on 21st September, 2016 are based on the philosophy that children need to be reformed and reintegrated into society.<sup>10</sup> The Government has adopted a new National Policy for Children (NPC, 2013 on 26th April, 2013). The National Plan of Action for Children (NPAC), 2016 is based on the principles embedded in the National Policy for Children 2013. The Action Plan has four key priority areas; survival, health and nutrition; education and development; protection and participation. The NPAC 2016 was released by Hon'ble Minister of Women and Child Development on 24th January 2017 on the occasion of National Girl Child Day<sup>11</sup>. To deal with child abuse cases, the Government has brought in a special law viz. "The Protection of Children from Sexual Offences (POCSO) Act, 2012". The National Conference on effective implementation of the provision of POCSO Act, 2012 was held in New Delhi on 14th January, 2016 along with NCPDR<sup>12</sup>. The Ministry is implementing a Centrally Sponsored Scheme i.e. **ICPS** since 2009-10 through the State Government/UT Administrations on predefined cost sharing financial pattern. The objectives of the Scheme are to contribute to the improvement in the well being of children in difficult circumstances, as well as reduction of vulnerabilities to situation and actions that leads to abuse, neglect, exploitation, abandonment and separation of children from parent<sup>13</sup>. The budget allocation under **ICPS** for the XII Plan period is Rs.2350.00 Crore. Against the allocated BE of Rs.397.00 Crore for 2016-17, an amount of Rs.335.58 Crore has been released so far (as on 31.12.2016)<sup>14</sup>.

<b>Legal Framework to Address Trafficking in India</b>	
<b>Article 23 of the Constitution</b>	Guarantees right against exploitation; prohibit traffic in human beings and forced labour and makes their practice punishable under law.
<b>Article 24 of the Constitution</b>	Prohibits employment of children below 14 years of age in factories, mines or other hazardous employment.
<b>Indian Penal Code, 1860</b>	There are 25 provisions relevant to trafficking; significant among them are: <ul style="list-style-type: none"> <li>• Section 366A - procurement of a minor girl (below 18 years of age) from one part of the country to another is punishable.</li> <li>• Section 366B - importation of a girl below 21 years of age is punishable.</li> <li>• Section 374 - provides punishment for compelling any person to labour against his will.</li> </ul>
<b>Immoral Traffic Prevention Act, (ITPA) 1956 renamed as Procuring, including or taking persons for Act, 1956 (SITA)</b>	Deals exclusively with trafficking; objective is to inhibit I abolish traffic in women and girls for such by drastic amendments to the purpose of prostitution as an organized the Suppression of Immoral means of living; offences specified are: <ul style="list-style-type: none"> <li>• Traffic in Women and Girls</li> <li>• prostitution;</li> <li>• Detaining a person in premises where prostitution is carried on;</li> <li>• Prostitution is or visibility of public places;</li> <li>• Seducing or soliciting for prostitution;</li> <li>• Living on the earnings of prostitution;</li> <li>• Seduction of a person in custody; and</li> <li>• Keeping a brothel or allowing premises to be used as a brothel.</li> </ul>
<b>Child Labour (Prohibition and Regulation) Act, 1986</b>	Prohibits employment of children in certain specified occupations and also lays down conditions of work of children.
<b>Information Technology Act, 2000</b>	Penalizes publication or transmission in electronic form of any material which is lascivious or appeals to prurient interest or if its effect is such as to tend to deprive and corrupt persons to read, see or hear the matter contained or embodied therein. The law has relevance to addressing the problem of pornography. India has also adopted a code of conduct for Internet Service Providers with the objective to enunciate and maintain high standard of ethical and professional practices in the field of Internet and related services.
<b>Juvenile Justice (Care and Protection of Children) Act, 2000</b>	<ul style="list-style-type: none"> <li>• Enacted in consonance with the Convention on the Rights of the Child (CRC); and</li> <li>• Consolidates and amends the law relating to juveniles in conflict with law and to children in need of care and protection.</li> <li>• The law is especially relevant to children who are vulnerable and are therefore likely to be inducted into trafficking.</li> </ul>
<b>Karnataka Devadasi (Prohibition of Dedication) Act, 1982</b>	Act of dedication of girls for the ultimate purpose of engaging them in prostitution is declared unlawful - whether the dedication is done with or without consent of the dedicated persons.
<b>Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989</b>	Penalty of imprisonment for three years and fine are stipulated in respect of anyone, who performs, promotes, abets or takes part in Devadasi dedication Ceremony.
<b>Goa Children's Act, 2003</b>	<ul style="list-style-type: none"> <li>• Trafficking is specially defined;</li> <li>• Every type of sexual exploitation is included in the definition of sexual assault;</li> <li>• Responsibility of ensuring safety of children in hotel</li> </ul>

	<p>premises is assigned to the owner and manager of the establishment;</p> <ul style="list-style-type: none"> <li>• Photo studios are required to periodically report to the police that they have not sought obscene photographs of children;</li> <li>• Stringent control measures established to regulate access of children to pornographic materials.</li> </ul>
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### **Schemes Launched By Indian Government To Improve The Protection of Children**

#### **UJWALA Scheme**

Launched by the Ministry in 2007-08 for the benefit of women and girls in difficult circumstances, with specific focus on the special needs of trafficking victims.

#### **Establishing Child Line**

This 24-hours phone service can be accessed by a child in distress or an adult on his/her behalf by dialing the number **1098**. Child line provides emergency assistance to a child and is based upon the child's need.

#### **Scheme for Rescuing Trafficking Victims**

This scheme is to address trafficking in women and children for commercial sexual exploitation through small pilot projects

#### **Kishori Shakti Yojana**

A holistic initiative supporting the development of adolescent girls (11-18 years) to promote awareness of health, hygiene and nutrition, as well as link girls to opportunities for learning life skills, returning to school and developing a better understanding of their social environment.

#### **Some New Schemes Launched By Centre Government**

Highlighting the steps being taken by the Centre for the safety and protection of women and child has launched, a simple and easy facility to register complaints of child sexual abuse or harassment. Last year government launched the 'Khoya Paya' portal which has already reported nearly 6,000 cases of missing/sighted children. Runaway /missing children are also being helped under social operating procedures developed in association with Railways. "13,000 children have already been helped under this initiative and posters are being pasted in all railway coaches to report children in distress."

#### **International Conventions and Laws Related To Child Trafficking**

When any person trafficked the children for illegal purpose and for own benefit due to greed of some money, at that time he infringe the rights of that child and their freedom. Every child whoever relates to any country of the world have some equal rights related to life. Every child have a right to freedom of life, education, religion, work, food, clothes , shelter etc. but some worst man for their specific purpose illegally used the children. International traffic increasing in children for the purpose of the sale of children, child prostitution and child pornography. International laws lay down standards that have been agreed upon by all countries. By ratifying an international law or convention or a covenant, a country agrees to implement the same. To ensure compatibility and implementation, the standards set forth in these international conventions are to be

reflected in domestic law. Implementing procedures are to be put in place as needed and the treaties must be properly enforced.

The following are the most important International Conventions regarding trafficking of children:

1. The Convention on the Rights of the Child, 1989.
2. The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000.
3. The Convention on the Elimination of All forms of Discrimination against Women, (CEDAW) 1979.
4. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
5. Declaration on Social and legal principles relating to the Protection and Welfare of Children, with special reference to Foster placement and adoption nationally and internationally, 3 December, 1986.
6. SAARC Convention on Regional Arrangement for the Promotion of Child Welfare, 2002.

#### **UN Agencies Related To Child Rights**

##### **UNICEF (United Nations Children's Fund)**

The organization has multiple countries and regional offices. UNICEF works in all areas concerning children. providing care for people affected by HIV/AIDS, immunization of children, child protection in times of conflict and peace, assistance in times of disaster and aim at improving the life of every child.

##### **WHO (The World Health Organisation)**

WHO also sets our norms and standards of health and health services that are to be followed by respected stakeholders, internationally? WHO dedicates a portion of its efforts to child and adolescent health and development as well as looks in to issues of children's environmental health. It has also outlined child growth standards to be used as indicators for child health.

##### **UNHCR (The United Nations High Commissioner for Refugees)**

Established in 1950, aims to protect refugees and mediate solutions for refugees problems in the world. This organizations works to protect child rights by facilitating family reunification, providing access to education ,health care and psycho-social support, conducting demobilization, disarmament and reintegration programmes for children associated with armed forces and armed groups awareness raising activities on gender issues and children's right and taking action against sexual and gender based violence.

##### **FAO- The Food and Agriculture Organisation**

These organization developing countries modernize and improve agriculture, forestry and fisheries practices so as to ensure good nutrition for

all. These organizations recognize the relationship between food and education in developing countries. The School Garden Project of the FAO aims to promote schools to grow their own nutritional products so as to ensure children receive the nutrients they need for development.

#### **Research Methodology**

The study was conducted through analysis of existing laws related to this crime with an appropriate inclusion of reputed Professors, Law students, Lawyers and Judges for true representation of the crime and their effect on society. A formal interaction, contained different questions relevant to present study was asked using different ethnographic techniques such as semi structured interviews and participant observation of Law students, conversation (formal and informal) and conversation analysis of eminent personalities related to the field of Law.

#### **Findings**

We are responsible for using children in begging because when any child comes near us for begging we are given to him some money quickly without any thought .while reality is that, it's a big network, which used children in begging and collect money daily evening from them. Indian movie "Traffic Signal" and An Oscar nominated movie "SLUM DOG MILLENIUR" also made on this reality. But people do not wake up. If we are take oath that don't give begging to any child, then we can stopped many crime related to children, like begging, kidnapping, trafficking etc. The lack of effective implementation of existing laws and people awareness, their participation and cooperation is reason behind the problem of child trafficking.

#### **Conclusion**

Laws are makes but not implemented properly due to effect of corruption and unawareness of people. Without any government officer's help this network cannot forward at large scale. If every person takes own personal responsibility not even trafficking, even every crime can be controlled. Today effective implementation of existing laws is necessary for controlling crime. In the fight against trafficking government organizations, non-governmental organizations, civil society, pressure groups, international bodies, all have to play an important role.

#### **Suggestion**

Law cannot be the only instrument to take care of all problems. Though a joint effort of civil society and government in child Education, Health & Nutrition, Child Protection, Humanitarian Response, lakhs of children have found hope. Multiple UN agencies working for saving future of children. Child trafficking infringes the child rights, and childhood. So for saving them we should help the children.

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